

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Wenger S.A.,

Plaintiff,

-against-

Galaxy Brands LLC et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 3/3/2023

1:20-cv-01107 (LGS) (SDA)

ORDER

STEWART D. AARON, United States Magistrate Judge:

Following a telephone conference with the parties, and for the reasons stated on the record, it is hereby Ordered as follows:

1. Walmart shall conduct a further review of the documents included on its privilege log (see Privilege Log, ECF No. 199-2) that were withheld on the basis that they were enclosures/attachments to privileged communications and shall produce to Plaintiff, no later than Friday, March 10, 2023, any such documents that it determines are not themselves privileged.
2. Walmart shall conduct a further review of documents included on its privilege log for which none of the individuals listed in "Author/From" and "To" are attorneys (for example, documents WM-Wenger0000294 and WM-Wenger0000411) and shall produce to Plaintiff, no later than Friday, March 10, 2023, any such documents that it determines are not privileged. If Walmart maintains that any such documents are privileged, Walmart shall send to the Court (for receipt no later than Monday, March

13, 2023) a thumb drive containing such documents for the Court's *in camera* review.¹

In the transmittal letter forwarding the thumb drive to the Court, which shall be filed to the ECF docket no later than Friday, March 10, 2023, Walmart shall identify any counsel for Walmart (not identified in Walmart's letter filed at ECF No. 202) who provided legal advice, or from whom legal advice was sought, in any of the foregoing documents.

3. No later than Friday, March 10, 2023, Walmart shall in the letter to be filed per paragraph 2 above EITHER:

(a) provide a breakdown of the number of documents withheld as non-responsive by search term set forth in ECF No. 199-3 (for example, of the documents withheld as non-responsive, how many hit on the search term Victorinox, etc.), together with a certification by an attorney for Walmart of a good faith belief that the documents are non-responsive, OR

(b) represent that Walmart shall produce to Plaintiff's counsel, for attorney's eyes-only review, all non-responsive documents. If Walmart chooses option 3(b), then, Walmart shall produce to Plaintiff's counsel all the non-responsive documents no later than Wednesday, March 15, 2023. Thereafter, Plaintiff's counsel shall review the non-responsive documents and, no later than Wednesday, March 29, 2023, return any documents they agree to be non-

¹ The thumb drive also shall include any documents within the scope of paragraph 1 above that Walmart contends are privileged.

responsive. If the parties disagree as to the responsiveness of any documents,
they shall meet and confer to seek to resolve such disagreement.

SO ORDERED.

Dated: New York, New York
March 3, 2023

A handwritten signature in black ink, reading "Stewart D. Aaron". The signature is written in a cursive, flowing style. The first name "Stewart" is written with a large, prominent "S". The last name "Aaron" is written with a large, prominent "A".

STEWART D. AARON
United States Magistrate Judge